

REMARKS

This paper is in response to the Office action mailed June 18, 2009 ("the Office Action"). The foregoing amendment amends claims 1, 9, 15, and 21. Claims 1-26 remain pending, of which claims 1, 9, 15, and 21 are independent. Applicants respectfully request reconsideration of the application in view of the above amendments to the claims and the following remarks. For Examiner's convenience and reference, Applicants present remarks in the order that the Office Action raises the corresponding issues.

In connection with the prosecution of this case and any related cases, Applicants have, and/or may, discuss various aspects of the disclosure of the cited references as those references are then understood by the Applicants. Because such discussion could reflect an incomplete or incorrect understanding of one or more of the references, the position of the Applicants with respect to a reference is not necessarily fixed or irrevocable. Applicants thus hereby reserve the right, both during and after prosecution of this case, to modify the views expressed with regard to any reference.

Please note that Applicants do not intend the following remarks to be an exhaustive enumeration of the distinctions between any cited references and the claims. Rather, Applicants present the distinctions below solely by way of example to illustrate some of the differences between the claims and the cited references. Finally, Applicants request that Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of any reference is consistent with Examiner's understanding.

Unless otherwise explicitly stated, the term "Applicants" is used herein generically and may refer to a single inventor, a set of inventors, an appropriate assignee, or any other entity or person with authority to prosecute this application.

Rejection under 35 U.S.C §103(a)

The Office action rejects claims 5-7 and 9-26 under 35 U.S.C §103(a) over *Anderson et al.* (U.S. Patent No. 5,850,388) in view of *Vaglica et al.* (U.S. Patent No. 6,125,404) and further in view of *Hrischuk et al.* (Patent Publication No. 2002/0194393) and rejects claims 1-4 and 8

under 35 U.S.C §103(a) over *Anderson* in view of *Vaglica*. Applicants respectfully traverse the rejection in light of the claim amendments and the following remarks.

Under 35 U.S.C §103(a), “[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” According to MPEP §2142, “[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” Finally, MPEP 2141.III notes that:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396.

Each of independent claims 1, 9, 15, and 21, recites “first captured data events” captured at a first link analyzer and “second captured data events” captured at a second link analyzer. In addition, each of the independent claims has been amended to recite, “sorting at least some of the first captured data events with respect to at least some of the second captured data events according to...respective clock timestamps associated with each of the first and second captured data events.” (Emphasis added.) In contrast, the cited art, whether considered individually or in combination, fails to teach or suggest the foregoing limitation in combination with the other limitations of each claim.

According to the Examiner, *Anderson* teaches capturing first and second data events at first and second link analyzers, respectively. See, e.g., *Office Action* at 3. Although the use of “a plurality of protocol analyzer instruments” is mentioned (col. 7, lines 60-65), *Anderson* does not describe sorting information captured by a first protocol analyzer instrument “with respect to” information captured by a second protocol analyzer instrument, as required by each independent claim, as amended. Instead *Anderson* describes sorting information from “a” protocol analyzer

instrument. See *Anderson* at col. 5, lines 23-34 (“...[T]he operation of a protocol analyzer includes...sorting...information....”)

Moreover, as explained in the background section of Applicants’ specification, several factors complicate the identification of temporal relationships between data events corresponding to different protocols. For example, even if data events are time-stamped, as *Vaglica* purportedly suggests, the time-stamps may not be adequate to allow for sorting because “each protocol in multi-protocol systems has a different associated clock.” See *Specification* at paragraph [0013]. Therefore, the mere teaching of time-stamping data events (purportedly found in *Vaglica*) or of a temporal relationship between data events (purportedly found in *Hrischuk*) fails to teach or suggest sorting information captured by different analyzers of a multi-protocol system, such as the one purportedly taught in *Anderson*.

In light of the foregoing, Applicants respectfully submit that each of independent claims 1, 9, 15, and 21, as amended, is allowable over the cited art. Therefore, withdrawal of the rejection of claims 1, 9, 15, and 21, and their corresponding dependent claims, is respectfully requested.

Charge Authorization

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are allowable. In the event that Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or overcome by an Examiner's Amendment, Examiner is requested to contact the undersigned attorney.

Dated this 18th day of November, 2009.

Respectfully submitted,

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